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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

DOCK MCNEELY,

Defendant and Appellant.

C061175

(Super. Ct. Nos.
07F09282 & 08F05205)

Defendant Dock McNeely appeals from an order finding him incompetent to stand trial, claiming it is not supported by substantial evidence. We granted the People's motion to augment the record, which shows that defendant was later found competent, tried, and convicted. We dismiss this appeal as moot.

FACTS

On January 13, 2009, in two consolidated cases (Nos. 07F09282 and 08F05205) involving charges of failing to register under Penal Code section 290, the trial court found defendant

incompetent to stand trial.¹ On February 10, 2009, he was committed to Napa State Hospital. On February 18, 2009, he filed notice of appeal from the order declaring him incompetent.

The augmented record shows that on June 9, 2009, the trial court found defendant competent to stand trial. Jury trial began on August 10, 2009. The jury convicted defendant on all counts on August 20, 2009.²

DISCUSSION

The People contend this appeal is moot. We agree. Defendant took the appeal to obtain a reversal of the order declaring him incompetent. Effectively, he has received the relief he sought, and there is no present controversy over his competence. Thus, the appeal is moot. (*In re Sodersten* (2007) 146 Cal.App.4th 1163, 1217.)

Defendant argues to the contrary, asserting: (1) the appeal poses a novel question of continuing public interest, and

¹ Further statutory references are to the Penal Code.

² The jury found that defendant had failed to register within five days of changing residence (count one; § 290, former subd. (g)(2)) and with failing to register within five working days of his birthday (count two; § 290.018, subd. (b)), that the offense in count two was committed while released on bail for the offense alleged in count one (§ 12022.1), and that defendant had previously been convicted of continuous sexual abuse of a child. (§ 288.5.) Defendant received an aggregate state prison term of seven years four months.

Defendant subsequently filed notice of appeal from his conviction and sentence in case No. C063051.

(2) he is entitled to relief from the stigma of a finding of incompetence. We disagree.

If an appeal poses a "novel question of continuing public interest," an appellate court may address it even though it is moot as to the defendant. (*In re Stevens* (2004) 119 Cal.App.4th 1228, 1232.) According to defendant, this appeal poses such a question because the finding of incompetence was "based on [psychological] reports that are nine or ten years old, after . . . defendant [was] allowed to represent himself at the preliminary hearing[.]" However, defendant does not cite to the record to support his characterization of what occurred nor does he offer argument or authority to show that what occurred was novel or of "continuing public interest." A legal proposition asserted without record citation, argument, or authority is forfeited. (*Troensegaard v. Silvercrest Industries, Inc.* (1985) 175 Cal.App.3d 218, 228.)

Defendant's "stigma" argument is no more persuasive. He relies solely on decisions which addressed the merits of technically moot appeals of judicial findings that defendants were mentally disordered sex offenders. (*People v. Feagley* (1975) 14 Cal.3d 338, 342-346; *People v. Succop* (1967) 67 Cal.2d 785, 790; *People v. Harvath* (1969) 1 Cal.App.3d 521, 526.) Not only is such a finding more obviously stigmatizing than a finding of incompetence to stand trial (which does not inherently suggest moral blame or dangerousness to society), but it imposes the objective burden of a lifetime registration requirement even after discharge from confinement. (*People v.*

Feagley, supra, 14 Cal.3d at p. 345.) For both reasons, the case law defendant relies on is inapposite.

DISPOSITION

The appeal is dismissed.³

NICHOLSON, J.

We concur:

SCOTLAND, P. J.

RAYE, J.

³ The recent amendments to Penal Code section 4019 do not operate to modify defendant's entitlement to credit, as he was required to register as a sex offender. (Pen. Code, § 4019, subds. (b)(2) & (c)(2); Stats. 2009, 3d Ex. Sess., ch. 28, § 50.)